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**UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEVADA**

In re
CASH CLOUD, INC. dba COIN CLOUD,
Debtor.

Case No.: 23-10423-mkn
Chapter 11

**OBJECTION OF THE OFFICIAL
COMMITTEE OF UNSECURED
CREDITORS TO THE EX PARTE
APPLICATION FOR ORDER
SHORTENING TIME FOR HEARING ON
MOTION TO CONVERT CASE TO
CHAPTER 7**

The Official Committee of Unsecured Creditors in the above-captioned cases (the “Committee”), by and through its undersigned counsel, hereby files this objection (the “Objection”) to the *Ex Parte Application for Order Shortening Time for Hearing on Motion to Convert Case to Chapter 7* [ECF No. 1035] (the “Application”) filed by Chris McAlary (“McAlary”) in connection

1 with the *Motion to Convert Case to Chapter 7* [ECF No. 1034] (the (“Conversion Motion”). In
2 support of this Objection, the Committee respectfully represents:

OBJECTION

4 1. The Committee objects to the Application, and is joined by the Debtor in doing so.
5
6 The Conversion Motion is nothing more than a last-minute attempt by McAlary to delay the Debtor's
7 plan process, and, more specifically, to impede the Committee's efforts to hold him accountable for
8 his repeated and intentional bad acts that placed his own interests above those of the Debtor and its
9 creditors, to whom he owed a fiduciary duty. In the Conversion Motion, McAlary largely cites to
10 the alleged administrative insolvency of the Debtor as grounds to convert the case, while
11 disregarding the fact that he is responsible for the loss of hundreds of thousands, if not millions, of
12 dollars *during the pendency of this bankruptcy case* as well as multiple millions before the case
13 was filed. McAlary has now realized that the Committee will do whatever is necessary to see that
14 he pays his debt to creditors, and he seeks to construct any roadblock he can to prevent that from
15 happening. The Court must see through this transparent tactic and allow this bankruptcy case to
continue to its conclusion.

16 2. The Committee sent a demand letter (the “Demand Letter”) to McAlary on July 28,
17 2023, detailing what it believes are numerous claims for breach of fiduciary duty and fraudulent
18 transfer, among others, that the Committee’s independent investigation has uncovered. To date,
19 McAlary has not meaningfully engaged the Committee in an attempt to resolve these claims.
20 Instead, McAlary has decided to engage in litigation gamesmanship to try to delay the implications
21 of his conduct even though it will cost the estate thousands of dollars more in unnecessary fees. He
22 seeks to displace the Committee and prevent this estate fiduciary—the party with the most
23 knowledge as to his bad acts—from remedying the injury his actions have caused the Debtor’s
24 creditors.

25 3. The Committee’s Demand Letter is a piece of a coherent strategy being jointly
26 implemented by the Debtor and the Committee to bring this case to an efficient exit from chapter
27 11. The Debtor and the Committee are pursuing the *Debtor’s First Amended Chapter 11 Plan of*
28 *Reorganization* [ECF No. 996] (the “Plan”) and are concurrently engaged in settlement discussion

1 with multiple litigation counterparties (which may be before the Court shortly), evaluating the
2 prospective sale of residual estate assets, investigating certain tax refund claims, and pursuing
3 preferential transfers, among other avenues to recovery. The Demand Letter is a cornerstone of this
4 process. To that end, the Debtor has stipulated to granting derivative standing to the Committee to
5 pursue claims against McAlary, and has proposed a Plan that transfers estate litigation, including
6 claims against McAlary, to a creditor trust. This strategy makes sense—not only is the Committee
7 (on behalf of all unsecured creditors) the party with the greatest remaining interest in the estate's
8 recovery, but it is also the party with the most knowledge of the relevant facts, having run an
9 independent investigation throughout the chapter 11 case.

10 4. McAlary's goal, on the other hand, is simply to hinder this strategy, not for the benefit
11 of the estate, but for his own personal gain. This is readily evident in both the Conversion Motion
12 and McAlary's objection to the stipulation granting the Committee derivative standing.

13 5. The Committee respectfully represents that the Court should not countenance this
14 delay tactic. Most of the arguments made in connection with the Application and the Conversion
15 Motion amount to Plan objections. To the extent McAlary wishes to raise objections in connection
16 with confirmation of the Plan, the Debtor and the Committee will address those objections as
17 scheduled. Filing a collateral attack on the Plan, on shortened notice, does nothing more than
18 increase the administrative costs of this case, and inhibit the efficient, value maximizing chapter 11
19 exit that is already in process.

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CONCLUSION

WHEREFORE, the Committee respectfully requests the Court deny the Application, and grant the Committee such other and further relief as the Court deems appropriate.

DATED this 8th day of August, 2023.

MCDONALD CARANO LLP

By: /s/ Ryan J. Works

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